

# ALBUQUERQUE PUBLIC SCHOOLS

Maintenance and Operations

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OFFICE OF THE  
SUPERINTENDENT

John Dufay  
DIRECTOR

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

June 23, 2008

## **Request for Review of a decision made by USAC – CC Docket No. 02-6**

**Billed Entity Numbers:** 99108, 99026, 99055, 99109, 99016, 99050, 98982, 99020, 98990, 99129

**Funding Year:** 2005 (7/1/2005 – 6/30/2006)

**Form 471 Numbers:** 467646, 467881, 467888, 468055, 468056, 468101, 468160, 468180, 475880, 476892

**FRNs:** 1286837, 1287741, 1293258, 1288518, 1288541, 1288728, 1289003, 1300606, 1312932, 1316012

**Decision being appealed:** Notification of Improperly Disbursed Funds Letters dated June 2, 2008

**Applicants:** Wherry Elementary School, Mission Avenue Elem School, Bel-Air Elementary School, Kirtland Elementary School, Cochiti Elementary School, Hodgkin Elementary School, Duranes Elementary School, Garfield Middle School, Atrisco Elementary School, Tomasita Elementary School

Note that the Forms 471 were filed with the individual schools as the applicants, but these schools are all under the administrative authority of the school district – Albuquerque Public Schools, so a consolidated appeal is being filed by the district.

Albuquerque Public Schools  
6400 Uptown Blvd. NE  
Suite 550E  
Albuquerque, NM 87110

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I am writing to request review by the Commission of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) to

915 Locust Street SE P.O.Box 25704 Albuquerque, NM 87125-0704 505.765.5950 505.247.3773 fax

Strategic  
Direction:



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seek recovery of funds (totaling \$48,352) that it believes were improperly disbursed because they were disbursed for "products and/or services that were not delivered."

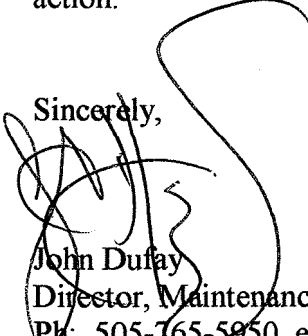
The Administrator's letter indicates that USAC determined that the service provider is responsible for this rule violation and that USAC will seek recovery from the service provider. We believe that Albuquerque Public Schools (APS) is an aggrieved party in this matter since, if recovery is sought from the service provider, we are concerned that the service provider will bill APS for the amount to be returned to USAC. Therefore, APS is filing this appeal.

APS entered into a maintenance agreement with B&D Electric (SPIN 143021082) with a one-year term. We requested E-rate discounts for the maintenance, and those requests were approved. Because of delays in funding commitment decisions made by USAC, which were beyond APS's control, the purchase and installation of equipment was delayed, the implementation of the new telephony system was delayed, and consequently, the onset of the maintenance of the PBX system for one year was also delayed.

APS could have sought reimbursement for a partial year of maintenance services from January 2006 through June 2006 under Funding Year 2005 and then sought reimbursement for the remainder of the maintenance contract from July 2006 through January 2007 from Funding Year 2006 monies. But APS did not request or receive E-rate support for maintenance in Funding Year 2006. We received one year of maintenance service from B&D from the date of installation, and B&D sought reimbursement of the discount share for that year from USAC. USAC paid for services that were delivered, although not entirely within the funding year.

The intent of the program was met in these circumstances – eligible schools received discounts on eligible services that were delivered in full. We ask that you waive your rules requiring delivery of services in the funding year in view of the circumstances in this case where the delay in delivery of the services was caused by delay on the part of USAC in approving the funding requests and direct USAC to terminate its recovery action.

Sincerely,



John Dufay  
Director, Maintenance & Operations  
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